

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #9	CCRB Case #: 201900625	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/16/2019 12:30 PM	Location of Incident: Inside the basement apartment of § 87(2)(b)	Precinct: 47	18 Mo. SOL 7/16/2020	EO SOL 3/2/2021	
Date/Time CV Reported Wed, 01/16/2019 11:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/22/2019 11:06 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM John Theos	09411	945050	047 PCT
2. DTS Jeremiah Williams	5408	927673	047 PCT
3. POM Daniel Bergamini	11304	955754	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Bjondin Skender	29051	951269	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Jeremiah Williams	Force: Detective Jeremiah Williams used a chokehold against § 87(2)(b)	§ 87(2)(b)
B.DTS Jeremiah Williams	Force: Detective Jeremiah Williams restricted § 87(2)(b)'s breathing.	§ 87(2)(b)
C.DTS Jeremiah Williams	Abuse: Detective Jeremiah Williams threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.DTS Jeremiah Williams	Abuse: Detective Jeremiah Williams frisked § 87(2)(b)	§ 87(2)(b)
E.DTS Jeremiah Williams	Abuse: Detective Jeremiah Williams searched § 87(2)(b)	§ 87(2)(b)
F.DTS Jeremiah Williams	Abuse: Detective Jeremiah Williams searched the basement apartment of § 87(2)(b) in the Bronx.	§ 87(2)(b)
G.DTS Jeremiah Williams	Abuse: Detective Jeremiah Williams searched the basement apartment of § 87(2)(b) in the Bronx.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On January 16, 2019, § 87(2)(b) filed this complaint with the Internal Affairs Bureau, which was received at the CCRB on January 22, 2019, under log number 19-2473.

On January 16, 2019, at approximately 12:30 p.m., Police Officer John Theos, Police Officer Bjondin Skender, Detective Jeremiah Williams, and Police Officer Daniel Bergamini, all of the 47th Precinct, arrived at the basement apartment of § 87(2)(b) in the Bronx, to investigate an allegation made on January 15, 2019, by § 87(2)(b)'s daughter, § 87(2)(b) that § 87(2)(b) had an illegal firearm in the apartment. While § 87(2)(b) was sitting in a boiler room at the back of the apartment, Det. Williams allegedly entered the boiler room, and instructed him to stand up. § 87(2)(b) began to stand but struggled because of a physical ailment. Det. Williams became impatient and allegedly grabbed him at the front of his neck, forcing him up by his neck from the seated position that he was in (**Allegation A: Force – Chokehold**, § 87(2)(g)) (**Allegation B: Force – Restricted breathing**, § 87(2)(g)).

While he continued holding § 87(2)(b) by the throat, Det. Williams asked § 87(2)(b) where the gun was and told him that if he provided it, he would be charged with a misdemeanor but if they had to find it, he would be charged with a felony (**Allegation C: Abuse of Authority – Threat of arrest**, § 87(2)(g)). Det. Williams then allegedly frisked § 87(2)(b) and placed his hand into § 87(2)(b)'s jacket pocket (**Allegation D: Abuse of Authority – Frisk**, § 87(2)(g)) (**Allegation E: Abuse of Authority – Search of person**, § 87(2)(g)). Det. Williams allegedly opened plastic bags in the boiler room of the apartment and searched through them (**Allegation F: Abuse of Authority – Search of premises**, § 87(2)(g)).

§ 87(2)(b) was walked out of the boiler room, into the living room/kitchen of the home. Det. Williams was then allegedly forced to sign a paper, which was not explained to him; after which, Det. Williams and PO Theos began to search the home (**Allegation G: Abuse of Authority – Search of premises**, § 87(2)(g)). The search of the location yielded negative results. After the search, the officers left the location.

§ 87(4-b), § 87(2)(g)

No summonses were issued or arrests were made in relation to this incident. Body worn camera (BWC) footage was obtained for this incident. (**Board Review 01**).

Findings and Recommendations

Allegation (A) Force: Detective Jeremiah Williams used a chokehold against § 87(2)(b)

Allegation (B) Force: Detective Jeremiah Williams restricted § 87(2)(b)'s breathing.

It is undisputed that on January 16, 2019, Det. Williams, the Field Intelligence Officer at the 47th Precinct, and additional 47th Precinct officers went to § 87(2)(b) to investigate an allegation that was made on January 15, 2019, regarding § 87(2)(b) having an illegal weapon.

During his CCRB statement, § 87(2)(b) stated that Det. Williams first entered the boiler room alone (**Board Review 02**). Det. Williams instructed § 87(2)(b) to stand from a seated position; however, after § 87(2)(b) struggled to stand because of a physical ailment, Det. Williams grabbed him with one hand at the front of his neck and lifted him up by his neck to a standing position. § 87(2)(b) stated that the action was especially painful because of a previous injury down an entire half of his body and that the injury was aggravated as a result of the action. The action limited § 87(2)(b)'s ability to breathe but did not stop his breathing entirely. § 87(2)(b) described the officers as being aggressive throughout the interaction.

Before providing a sworn in person statement, § 87(2)(b) also provided a brief phone

statement; during which, he stated that Det. Williams entered the boiler room and grabbed him “by the throat” (**Board Review 16**). No additional details surrounding the allegations were obtained during the call because of a communication barrier.

§ 87(2)(b) who called 9-1-1 on January 15, 2019, provided a phone statement to the investigation; during which, she stated that after the officers arrived at the location on January 16, 2019, she walked them into her bedroom and pointed to the boiler room where § 87(2)(b) was seated (**Board Review 03**). Officers walked to § 87(2)(b) and gave him instructions to exit the room. The officers who arrived did not enter the boiler room, but rather they spoke to § 87(2)(b) from the doorway. Although she did not enter the back room, the officers remained in her line of sight the entire time. None of the officers made any physical contact with § 87(2)(b) at any point while he was in the boiler room. Specifically, § 87(2)(b) was not grabbed by the neck or pushed against a wall by any officer. Despite being heavily intoxicated, § 87(2)(b) independently walked out of the boiler room, walked through the bedroom, and into the kitchen.

During a separate phone statement, § 87(2)(b) § 87(2)(b)'s other daughter, stated that when officers entered the boiler room, she was not able to see them or § 87(2)(b) (**Board Review 04**). When asked, § 87(2)(b) stated that it was unlikely force was used against § 87(2)(b) because he walked out on his own and had a pleasant demeanor with the officers when he exited and throughout the incident.

When interviewed at the CCRB, Det. Williams stated that he entered the back room with PO Theos, and he did not grab § 87(2)(b) by the neck or touch him in any way that would have restricted his breathing (**Board Review 05**). Det. Williams did not stand § 87(2)(b) up by grabbing his neck and lifting him. § 87(2)(b) was walked out of the boiler room by Det. Williams and PO Theos.

PO Theos stated that after he and the other officers entered the location, § 87(2)(b) exited the boiler room (**Board Review 06**). He did not recall what prompted § 87(2)(b) to exit the boiler room. He did not recall going or seeing any other officer go into the boiler room. He did not see Det. Williams or any other officer grab § 87(2)(b) by the neck or make contact with him in any way that would have restricted § 87(2)(b)'s breathing.

The officers failed to activate their BWCs for this portion of the incident.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Detective Jeremiah Williams threatened to arrest § 87(2)(b).

It is undisputed that on January 15, 2019, § 87(2)(b) reported to PO Theos that § 87(2)(b) threatened to shoot her, that § 87(2)(b) owned a gun, and that she had seen the weapon in the home on multiple occasions.

§ 87(2)(b) alleged that while Det. Williams held him by the neck, Det. Williams said that if he told the officers where the gun was in the apartment he would be charged with a misdemeanor, but if the officers had to search the location and find the gun themselves, he would be charged with a felony. In response, § 87(2)(b) told Det. Williams that he did not have a gun in the apartment (**Board Review 02**).

Det. Williams denied telling § 87(2)(b) that he would be charged with a misdemeanor if he told him where the gun was or be charged with a felony if the officers found the gun. He did not threaten to arrest § 87(2)(b) during the incident (**Board Review 05**).

NY CLS Penal § 265.01-b (**Board Review 09**). A person is guilty of criminal possession of a gun when they unlawfully possess a gun.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Detective Jeremiah Williams frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Detective Jeremiah Williams searched § 87(2)(b)

Allegation (F) Abuse of Authority: Detective Jeremiah Williams searched the basement apartment of § 87(2)(b) in the Bronx.

It is undisputed that § 87(2)(b) alleged that § 87(2)(b) threatened to shoot her on January 15, 2019. It is also undisputed that the allegation in question occurred on January 16, 2019.

Additionally, it is undisputed that Det. Williams entered the boiler room to speak with § 87(2)(b)

Finally, it is undisputed that § 87(2)(b) signed the consent to search form after he and Det.

Williams exited the boiler room.

§ 87(2)(b) stated that Det. Williams felt over his pants pockets and waist area; after which, he placed his hands into § 87(2)(b)'s jacket pocket. Det. Williams then began to open and look through plastic bags that were on the floor of the boiler room (**Board Review 02**).

§ 87(2)(b) stated that Det. Williams did not touch § 87(2)(b) and did not account for seeing Det. Williams look through bags on the floor of the boiler room. She stated that the officers were in the boiler room for a short period of time (**Board Review 03**).

§ 87(2)(b) was not able to see the officers after they entered the boiler room (**Board Review 04**).

Det. Williams denied frisking § 87(2)(b) searching him, or conducting any search of the premises before the Consent to Search form was signed (**Board Review 05**).

PO Theos did not recall being near the boiler room or observing any conduct inside the boiler room. He did not make any observations on January 16, 2019, that indicated to him that § 87(2)(b) had a weapon on his person (**Board Review 06**).

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority: Detective Jeremiah Williams searched the basement apartment of § 87(2)(b) in the Bronx.

It is undisputed that § 87(2)(b) signed a consent to search form. It is further undisputed that the BWC recordings obtained in relation to this incident begin as § 87(2)(b) was in the process of signing the Consent to Search Form and did not capture any explanation to § 87(2)(b) about that form and the rights afforded to him.

§ 87(2)(b) stated that Det. Williams presented and asked him to sign a form that was folded in a manner that obstructed his ability to read the content of the paper presented. When he asked Det. Williams what the content of the paper was, Det. Williams told him to just sign it. § 87(2)(b) then asked what the content was a second time, and Det. Williams responded by telling him to sign it once again. § 87(2)(b) felt like he had no way out of the situation, so he signed the paper. He stated that he did not consciously give the officers permission to search the apartment, and only learned he signed a Consent to Search form when he saw the officers searching the apartment, asked why they were searching the apartment, and was told that he gave them permission to search by signing the form (**Board Review 02**).

Det. Williams stated that he or PO Theos presented a Consent to Search form to § 87(2)(b) and explained the content and purpose of the form to him. He did not recall who explained the content of the form. When asked, Det. Williams stated that whoever presented the form informed § 87(2)(b)

§ 87(2)(b) that he had the right not to sign the form. He knew this was communicated because it was standard NYPD policy, not because he recalled it happened. § 87(2)(b) signed the form with full knowledge of what was occurring. Det. Williams did not prepare any documentation related to this incident (**Board Review 05**). Det. Williams did not make any memo book entries in relation to this incident (**Board Review 14**). Det. Williams has not been assigned a Body Worn Camera.

PO Bergamini's January 16, 2019, Body Worn Camera footage, begins with Det. Williams explaining to § 87(2)(b) where to sign on a paper that was placed on a flat surface in front of him (**Board Review 07**). After he signs it, Det. Williams asks him to date the form. Det. Williams then tells him that by signing the paper he gave the officers permission to search the home.

PO Theos' BWC footage begins with him in a room separate from § 87(2)(b) and the other officers speaking with § 87(2)(b) and § 87(2)(b) (**Board Review 17**). At the 1:11 VLC timestamp, PO Theos joins the other officers in the kitchen of the apartment; after which, he and Det. Williams immediately begin to search the location.

NYC Administrative Code 14-173 (A)1 – 5 (**Board Review 10**). Officers must explain consent searches clearly and in a non-threatening manner. The person consenting must voluntarily, intelligently, and knowingly consent to the search, and it must be explained that a search will not be conducted if they refuse consent.

NYC Administrative Code 14-173 (B)1 and 2 (**Board Review 10**). An officer who seeks consent to conduct a search that is subject to the guidelines established in NYC Administrative Code 14-173 (A)1 – 5 (*Section A*) must:

1. Create a video record of the information communicated pursuant to *Section A* and the response of person providing or refusing consent when the officer is equipped with a BWC -OR-
2. Document the time, location, and date of such search, and the apparent race/ethnicity, gender, and age of the person who was the subject of the search, and the officer's own name, shield number, and assigned precinct.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 11**).
- Det. Williams has been a member of service for 19 years, and has been a subject in 22 other CCRB complaints and 58 other allegations, of which two allegations were substantiated:
 - 200704005 involved substantiated allegations of a Stop and a Frisk against Det. Williams. The Board recommended charges, but the NYPD did not impose discipline.
 - § 87(2)(g)
- PO Theos has been a member of service for 12 years and has been a subject in three other CCRB complaints and eight other allegations, none of which were substantiated. § 87(2)(g) (see officer history).
- PO Bergamini has been a member of service for six years and has been a subject in two other CCRB complaints and three other allegations, none of which were substantiated. § 87(2)(g) (see officer history).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 4, 2019, The New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards to this complaint (**Board Review 12**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 13**).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date